



*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
25 MARKET STREET  
PO Box 112  
TRENTON, NJ 08625-0112

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

GURBIR S. GREWAL  
*Attorney General*

MICHELLE L. MILLER  
*Director*

June 7, 2020

**Via ECF and U.S. Mail**

Hon. Robert B. Kugler, U.S.D.J.  
United States District Court  
4<sup>th</sup> & Cooper Streets  
Camden, NJ 08101

Re: *Atilis Gym Bellmawr, LLC v. Philip D. Murphy, et al.*  
Civil Action No. 20-6347-RBK-KMW

Dear Judge Kugler:

Plaintiff Atilis Gym Bellmawr has provided Defendants, through the undersigned, with a copy of its motion for a temporary restraining order (Dkt. 8). Before the Court renders any decision, Defendants wanted to make it aware of a related state court matter, and related facts thereto, that Plaintiff has not disclosed either in its motion brief or certifications, or in its complaint.

Defendant Commissioner Persichilli's May 20, 2020 Emergency Closure Order (*see* Compl. Exh. D, Dkt. 1-4) is the subject of a related, ongoing civil enforcement action in state court. *Persichilli v. Atilis Gym Bellmawr*, MER-C-48-20. Ex. A.<sup>1</sup> In that action, on May 22 the Honorable Robert T. Lougy, P.J. Ch. granted temporary restraints to enforce the administrative order, and specifically "authorized [the State] to take further steps to secure the premises and ensure it stays closed to the public, such as by locking the facility's doors." Ex. B, at p. 2. In other words, the State's "changing the locks to our gym," Dkt. 8-2 at ¶ 5, *see* Dkt. 1 at ¶

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<sup>1</sup> Atilis Gym Bellmawr and Commissioner Persichilli are adverse parties in both this lawsuit and the state court lawsuit, and each is represented by the same counsel in both cases.



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47, was done pursuant to a court order that Plaintiff now would have this Court essentially overturn. A final order-to-show-cause hearing had been scheduled for this Monday, June 8 at 1:30 p.m. Ex. B at 2. However, Plaintiff failed to file an opposition by May 29 as set forth by the state court's order, and the order to show cause is now expected to be decided on the State's undisputed papers. *Id.* at p. 4.

Defendants request that, if the Court otherwise will entertain Plaintiff's demand for a temporary restraining order, they be permitted to provide an additional response to same, which they would be prepared to do in short order.

Respectfully submitted,

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Daniel M. Vannella  
Daniel M. Vannella (015922007)  
Assistant Attorney General

cc: Christopher Arzberger, Esq. (via ECF and e-mail)  
James Mermigis, Esq. (via e-mail)